

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,)	File No. 18-cr-311
)	(ADM/LIB)
Plaintiff,)	
)	
vs.)	Saint Paul, Minnesota
)	February 11, 2019
Craig Steven Jackson, Jr. (2),)	2:00 p.m.
Jatwain Martez Williams (4),)	
)	
)	
Defendants.)	

BEFORE THE HONORABLE LEO I. BRISBOIS
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE
(ARRAIGNMENT and MOTIONS HEARING)

APPEARANCES

For the Plaintiff:	UNITED STATES ATTORNEY DEIDRE Y. AANSTAD, AUSA 300 South Fourth Street Suite 600 Minneapolis, Minnesota 55415
For Defendant Jackson:	CHESTNUT CAMBRONNE, PA BRIAN TODER, ESQ. 17 Washington Avenue North Suite 300 Minneapolis, Minnesota 55401-2048
For Defendant Williams:	RIVERS LAW FIRM, PA BRUCE M. RIVERS, ESQ. 701 4th Avenue South Suite 300 Minneapolis, Minnesota 55415
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Proceedings recorded by mechanical stenography;
transcript produced by computer.

I N D E XGOVERNMENT WITNESSES:PAGEKRISTOPHER LARSON

Direct Examination by Ms. Aanstad

23

Cross-Examination by Mr. Toder

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GOVERNMENT EXHIBITSREC'D

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P R O C E E D I N G S

IN OPEN COURT

THE COURT: This is the matter of the United States of America versus Dawn Lee Kier, et al, court file 18-cr-311. The purpose of today's hearing was ostensibly motion practice in all cases, and we have an arraignment to do in one case.

In the case of United States of America versus Aletha Rochelle Pirtle, 18-cr-11 (3), the Defendant filed no motions and indicated to the Court they would not be appearing today. The Government did file a Motion for Discovery and Production, docket number 55. There's no defense counsel for Ms. Pirtle, but if the Government representative would note their appearance, I have a question.

MS. AANSTAD: Good afternoon, Your Honor. Deidre Aanstad on behalf of the United States.

THE COURT: And, Ms. Aanstad, you're the Assistant United States Attorney for all four defendant cases, right?

MS. AANSTAD: Correct, Your Honor.

THE COURT: Okay. So your appearance today is for all four defendant cases?

MS. AANSTAD: Yes, Your Honor.

THE COURT: All right. Is your motion docket

1 number 55 still before the Court or is that -- when the
2 Defendant filed no motions, should that have been stricken
3 as well?

4 MS. AANSTAD: Yes, Your Honor, I apologize. I
5 will move to withdraw that motion.

6 THE COURT: All right. That will be reflected in
7 the minutes.

8 All right. Then with regard to the case for
9 purposes of arraignment, that's United States of America
10 versus Jatwain Martez Williams, 18-cr-311 (4). If defense
11 counsel would note their appearance for Mr. Williams,
12 please.

13 MR. RIVERS: Bruce Rivers on behalf of
14 Mr. Williams who is present and to my right, Your Honor.

15 THE COURT: All right. And Mr. Williams, I
16 received a letter last week, I think it was on the 5th,
17 docket numbers 75 through 80 were the defense motions. They
18 have been withdrawn, correct?

19 MR. RIVERS: Yes, Your Honor.

20 THE COURT: All right. And Ms. Aanstad, docket
21 number 56 was the Government's Motion for Discovery directed
22 at Mr. Williams. Should that have been withdrawn as well?

23 MS. AANSTAD: Yes, Your Honor. The Government
24 would move to withdraw it.

25 THE COURT: All right. So that will be withdrawn

1 in the minute entries today.

2 All right. Then Mr. Williams, if you and
3 Mr. Rivers would come to the podium, please.

4 Mr. Williams, for the record, could you state your
5 full name, include your middle name and spell your last
6 name.

7 DEFENDANT WILLIAMS: Jatwain Martez Williams,
8 W-i-l-l-i-a-m-s.

9 THE COURT: And Mr. Williams, also for the record,
10 could you state your date of birth?

11 DEFENDANT WILLIAMS: 11-08-96.

12 THE COURT: Mr. Williams, an indictment was filed
13 against you on or about January 18th, 2019. You have a
14 right to have that document read into the record in its
15 entirety or you can waive the reading. The choice is yours.
16 What would you like to do?

17 DEFENDANT WILLIAMS: Waive it.

18 THE COURT: The record may reflect that
19 Mr. Williams has waived the reading of the indictment. Then
20 at this time, sir, as to the counts in the indictment
21 arrayed against you, how do you plead?

22 DEFENDANT WILLIAMS: Not guilty.

23 THE COURT: Pleas of not guilty will be entered on
24 the record on behalf of Mr. Williams as to all counts in the
25 indictment arrayed against him.

1 Anything from the Government with regard to the
2 arraignment?

3 MS. AANSTAD: No, Your Honor.

4 THE COURT: Mr. Rivers, anything further from the
5 defense with regard to the arraignment?

6 MR. RIVERS: No, Your Honor.

7 THE COURT: Ms. Aanstad, is there any reason, in
8 light of the withdrawal of the motion, that Mr. Rivers and
9 Mr. Williams need to remain?

10 MS. AANSTAD: No, Your Honor.

11 THE COURT: Mr. Rivers, any reason why you would
12 need to remain?

13 MR. RIVERS: Other than to learn from Mr. Toder,
14 no.

15 THE COURT: That's entirely voluntary and that's
16 what I mean. But it's entirely up to you and Mr. Williams
17 whether you want to stay or go, but we've concluded our
18 business for today.

19 MR. RIVERS: Thank you.

20 THE COURT: All right. Thank you.

21 With regard to United States of America versus
22 Dawn Lee Kier, 18-cr-311 (1), the Court received a letter
23 from defense counsel Mr. Aligada indicating that the defense
24 motions he desired to be submitted on the papers and that
25 the Defendant and her counsel's appearance be excused. The

1 Court granted that request.

2 Ms. Aanstad, do you have docket number 53, which
3 is the Government's motion directed at Defendant Kier? Are
4 you submitting that to the Court on the papers as well?

5 MS. AANSTAD: Yes, Your Honor.

6 THE COURT: All right. All right. That then
7 leaves Motions for Discovery and Production of Evidence, and
8 two potential motions subject to a report and recommendation
9 in the matter of the United States of America versus Craig
10 Steven Jackson, Jr., 18-cr-311 (2). Would counsel for
11 Mr. Jackson please note your appearances.

12 MR. TODER: Good morning, Your Honor. Brian Toder
13 on behalf of Mr. Jackson who is present.

14 THE COURT: All right. Let me work a little bit
15 backwards. It appears from the materials that have been
16 submitted based on my review of those before today that
17 docket number 68, Defendant's Motion to Suppress Evidence of
18 Electronic Surveillance, is moot. Have I got that right?

19 MR. TODER: Yes, Your Honor.

20 THE COURT: So counsel can agree on the record
21 here before the Court that that can be withdrawn?

22 MR. TODER: Yes, Your Honor.

23 MS. AANSTAD: Yes, Your Honor.

24 THE COURT: All right. So that would leave one
25 motion subject to potential report and recommendation. That

1 would be docket number 66, Defendant Jackson's Motion to
2 Suppress Statements. Motion papers refer to April 12th,
3 2018. Is that motion still before the Court?

4 MR. TODER: It is, Your Honor.

5 THE COURT: Okay. And there's going to be
6 testimony and evidence?

7 MS. AANSTAD: Yes, Your Honor, if I may?

8 THE COURT: Yeah.

9 MS. AANSTAD: Your Honor, I advised the Court
10 staff earlier today, and I'd advised Mr. Toder last
11 Wednesday when the motions hearing was continued from last
12 Wednesday to today, that the Court -- or excuse me -- the
13 Government had indicated that the investigator or Special
14 Agent Daniel Skoog from the Becker County Sheriff's Office
15 would be testifying to the statement that was obtained from
16 the Defendant on April 12th, 2018. However, Agent Skoog was
17 unable to be here today and there was another officer that
18 was in the room during the course of the statement and
19 participated in the interview with the Defendant on April
20 12th of 2018. He is here to testify today. That is
21 Investigator Kristopher, starting with a K, Kristopher
22 Larson from the White Earth Police Department.

23 THE COURT: All right. I think what we'll do is
24 we'll hold off on that until we do the discovery motions.
25 But just as long as we're talking about process here,

1 Mr. Toder, Ms. Aanstad, do you expect a briefing period
2 following the hearing on this motion? I mean, you're
3 welcome to it. I just want to know what we're --

4 MR. TODER: I don't know until I hear the
5 testimony, Your Honor.

6 THE COURT: Okay. All right. We'll ask the
7 question again then after we're done.

8 All right. Mr. Toder, if you and Ms. Aanstad
9 would both come to the podium we'll go through the discovery
10 motions. I have them. We have reviewed the written
11 materials. I'll give you an opportunity to make any
12 additional oral comments that you want to make and then the
13 matters will be submitted subject to order.

14 Docket number 54 is the Defendant's motion for --
15 I'm sorry -- the Government's Motion for Discovery directed
16 at Defendant Jackson. Mr. Toder, have you had a chance to
17 review that?

18 MR. TODER: I have, Your Honor.

19 THE COURT: The reason I ask is there was no
20 written response filed. Any objections to what the
21 Government is seeking?

22 MR. TODER: None.

23 THE COURT: Ms. Aanstad, your motion didn't
24 provide dates for suggested compliance. Do you leave that
25 to the Court's discretion?

1 MS. AANSTAD: Yes, Your Honor.

2 THE COURT: All right. Docket number 60 is
3 Defendant Jackson's Motion for Mandatory Early Jencks
4 Disclosures. The Government objects to the Court mandating
5 those, but it looks like from both the written motion and
6 the response from the Government, it appears that the
7 parties have agreed to voluntary exchanges of materials
8 subject to the Jencks Act seven days before trial. I want
9 to make sure I'm reading everything correctly. Ms. Aanstad?

10 MS. AANSTAD: That's correct, Your Honor.

11 THE COURT: Mr. Toder?

12 MR. TODER: That's correct, Your Honor.

13 THE COURT: Okay. Docket number 51 is Defendant
14 Jackson's Motion for Discovery and Inspection. Included in
15 there, other than Rule 16 type requests and some other
16 requests, there's also specifically Rule 16(a)(1)(G), expert
17 disclosure requests. So maybe that seems like that's the
18 area that I might want to hear the most about.

19 MS. AANSTAD: I apologize, Your Honor, what?

20 THE COURT: It's docket number 51 and in paragraph
21 5 Defendant Jackson is seeking -- appears to me --

22 MS. AANSTAD: I don't believe I responded to that.

23 THE COURT: Yeah, that's what I'm -- there wasn't
24 a written response.

25 MS. AANSTAD: It was filed earlier; is that

1 correct?

2 THE COURT: Docket 51 was filed earlier.

3 MS. AANSTAD: Your Honor, with respect to expert
4 disclosures, I anticipate if this matter were to go to trial
5 the Government would retain or would utilize experts during
6 the course of trial. I would ask that disclosures be made
7 three weeks prior to trial.

8 THE COURT: Mr. Toder.

9 MR. TODER: I believe three weeks is adequate.

10 THE COURT: Okay. All right. Any other aspects
11 of docket number 51 that either party wants to comment on or
12 draw my attention to?

13 MS. AANSTAD: No, Your Honor.

14 MR. TODER: No, Your Honor.

15 THE COURT: Docket number 61 is the defense's
16 motion seeking that the Government provide an early list of
17 its trial witnesses. But, again, from the materials that I
18 have received, it appears that the parties have reached an
19 agreement outside of these proceedings that that list will
20 be provided 14 days before trial. Again, am I correct in my
21 assumptions?

22 MS. AANSTAD: Yes, Your Honor.

23 MR. TODER: Yes, Your Honor.

24 THE COURT: Docket number 62 is Defendant
25 Jackson's Motion for Early Disclosure of Post-Conspiracy

1 Statements of Codefendants. Again, there's reference in the
2 materials submitted that there was a meet and confer and
3 that there's been an agreement that any response materials
4 to this request would be provided 14 days before trial.

5 MR. TODER: Your Honor, there was, but there's
6 been some modification of that since then.

7 THE COURT: All right.

8 MR. TODER: And I understand that the Government
9 is relying on Rule 16 and the Jencks Act as to the timing of
10 whether they have to produce statements of codefendants.
11 However, our theory of the case is, is that Defendant had
12 nothing to do with this conspiracy at all; and to the extent
13 that there are statements there that absolutely do not
14 include even mention of the Defendant, and they normally
15 would had he been part of the conspiracy, we consider those
16 statements as *Brady* material actually, which would trump
17 Rule 16 and the Jencks Act.

18 However -- and I believe the Government disagrees
19 with that but we've worked out something. The Government,
20 as I recall, has agreed to -- she says that there's three
21 statements out there and those are to be provided now, and I
22 guess they have been or today they will be uploaded on
23 USAfx, so I guess that would solve the problem.

24 THE COURT: So any statements that are even
25 arguably responsive to your request amount to three, and the

1 parties have agreed to make those available as of today?

2 MR. TODER: Yes.

3 THE COURT: Does that make this motion moot?

4 MR. TODER: Yes.

5 MS. AANSTAD: If I could add, Your Honor, I simply
6 want to clarify. First, the Government is agreeing to this;
7 however, disagrees that it is *Brady* material. These
8 statements -- I typically would not agree to disclose these
9 statements. They are all statements made to law
10 enforcement. There's actually more than three statements as
11 I look at it today. Defendant Pirtle made a series of
12 statements after her arrest on April 12th of 2018. All
13 statements are being disclosed.

14 THE COURT: So there's actually more than three?

15 MS. AANSTAD: Right.

16 THE COURT: But you're going to produce them all
17 today?

18 MS. AANSTAD: Producing all statements made by the
19 three codefendants that were made to law enforcement April
20 12th, 2018. No further statements made by any of the three
21 codefendants after April 12th of 2018.

22 THE COURT: And your purpose of the record you
23 just made is to make clear that by making that production,
24 you're not giving up on any claim that these are statements
25 made by co-conspirators?

1 MS. AANSTAD: Correct.

2 THE COURT: Okay. So whether or not that may or
3 may not affect admissibility or whatever, that issue is
4 obviously for the trial court at the time of trial.

5 MS. AANSTAD: That's right.

6 THE COURT: That's what you're doing?

7 MS. AANSTAD: Yes.

8 THE COURT: Okay. Mr. Toder, do you understand
9 that the production is being made consistent with that
10 representation?

11 MR. TODER: Yes, Your Honor.

12 THE COURT: Okay. So I'll get back to my initial
13 question then. In light of the agreement that's been placed
14 on the record here and the statement as to the basis of
15 the -- or the reasons for the production and the
16 preservation of its position relative to the
17 characterization of those statements to be produced by the
18 Government later today, is docket number 62 now moot?

19 MR. TODER: It is, Your Honor.

20 THE COURT: Okay.

21 MS. AANSTAD: Your Honor, I have to clarify. As I
22 indicated to Mr. Toder, I anticipate -- I have assistants
23 working on that over in Minneapolis to get that uploaded to
24 USAfx. Because they are all audio statements, it does take
25 some time to load them. So either it will be by the end of

1 today or maybe tomorrow morning when USAfx -- our disclosure
2 is ready to push it out.

3 THE COURT: Okay. By in any event, by the end of
4 the day tomorrow Mr. Toder will have access to them?

5 MS. AANSTAD: I would assume so, yes, Your Honor.
6 According to my assistant, yes.

7 MR. TODER: And, Your Honor, if I may?

8 THE COURT: Yes.

9 MR. TODER: Since we're fine tuning this a little
10 bit, if there are transcripts generated from those, I assume
11 the Government will turn those over as soon as they acquire
12 such transcripts?

13 MS. AANSTAD: And I will. There were -- are not
14 transcripts that have been generated at this point in time.

15 THE COURT: I think Mr. Toder understood that.
16 He's looking forward -- forward looking.

17 MS. AANSTAD: Yes.

18 THE COURT: Not looking forward.

19 MS. AANSTAD: If there are transcripts that are
20 generated --

21 THE COURT: They will be produced?

22 MS. AANSTAD: -- we'll disclose those.

23 THE COURT: All right. Again, subject to this --
24 it's called a friendly amendment to the agreement -- any
25 reason why docket number 62 can't be determined as moot

1 based on representations made on the record by counsel?

2 MR. TODER: We can so determine as moot.

3 THE COURT: Ms. Aanstad, do you concur?

4 MS. AANSTAD: Yes, Your Honor.

5 THE COURT: I'm going to take docket number 63 and
6 65 together. They are motions to retain. One is to Retain
7 Rough Notes. That's docket number 63. And the docket
8 number 65 is Motion to Retain Evidence. The Government, I
9 believe, does not object, but I don't want to put words in
10 the Government's mouth.

11 MS. AANSTAD: Your Honor, with respect to
12 retaining any rough notes, the Government does not object to
13 retention but obviously objects to disclosure of any rough
14 notes.

15 With respect to docket number 65, the Motion to
16 Retain Tangible Evidence and Like Materials, the Government
17 does agree at this point in time that it will retain all
18 evidence. And I would note for the Court that defense
19 counsel talked about a laundry bag that was recovered from
20 the Defendant's vehicle. I have since learned that that
21 material or that laundry bag was produced to the Defendant
22 himself on, I believe it was, May 14th, 2018. I have
23 provided all the documentation to Mr. Toder through an
24 e-mail that I sent last week with respect to the whereabouts
25 of that laundry bag.

1 THE COURT: Mr. Toder, anything that you want to
2 say with regard to 63 or 65?

3 MR. TODER: Well, my intel was that the laundry
4 bag was picked up by Defendant's mother who was there to
5 pick up all kinds of things out of the vehicle, including
6 sneakers and such.

7 THE COURT: Well, let's not have a conversation
8 with each other. Talk to the bench.

9 MR. TODER: Sorry, Your Honor.

10 THE COURT: All right.

11 MR. TODER: This laundry bag issue is extremely
12 important in this case. The case could very well turn on
13 it. The laundry bag was found in the back seat of the car.
14 It was filled with women's clothing and it was in that
15 laundry bag that there were some Pringle's boxes and there
16 was most of the subject heroin. And my client maintains
17 that he has never seen this bag before and we wanted -- the
18 discovery that we talked about, we wanted to be able to test
19 that for DNA or fingerprints in there, whatever. So we were
20 surprised to find out that it disappeared.

21 I think the Government is going to let us retain
22 their rough notes because later on that could come up. If
23 no one can talk about what was in the laundry bag and what
24 was done to it before it was removed, that may be important.
25 But for purposes of what we're doing today, the Government

1 has agreed to retain rough notes so we're not going to
2 pursue that argument. And as I understand, the laundry bag
3 is gone. So the horse being out of the barn, it appears
4 that 65 is also moot now then.

5 THE COURT: Well, but you have been provided with
6 the evidence receipts that show when the materials were
7 released. I understand that's what -- at least maybe that's
8 what I understood the Government's position to be.

9 MR. TODER: That would --

10 THE COURT: That was in May of 2018.

11 MR. TODER: I don't recall any specific document
12 that shows this laundry bag went somewhere.

13 THE COURT: Well, if it's been provided and you
14 misplaced it, then I'm sure Ms. Aanstad would provide you
15 with a duplicate set of those documents. You might want to
16 check again and let her know if you've got it or not.

17 MR. TODER: I will.

18 THE COURT: Okay. But otherwise you're
19 withdrawing docket number 65?

20 MR. TODER: Yes.

21 THE COURT: Okay.

22 MS. AANSTAD: And, Your Honor, if I may, just so
23 the record is clear, I will speak with Mr. Toder after this
24 hearing with respect to the e-mail that was sent last week
25 on Monday -- excuse me -- Tuesday that included not only the

1 receipt, the Becker County release of property receipt that
2 was signed by the Defendant himself, but also a screenshot
3 of a text message, which in essence could be rough notes,
4 that was sent by Investigator Luke Sweery (phonetically
5 spelled) to Investigator Peter Loomey (phonetically spelled)
6 and Investigator Skoog when these items were released to the
7 Defendant.

8 And finally I sent an e-mail that was sent by the
9 receptionist at the Becker County Sheriff's Office that
10 indicated that the Defendant was present and wanted to get
11 items out of his vehicle which had been seized on April 12th
12 of 2018 and was going to be forfeited in the state process.

13 THE COURT: And those were attachments to the
14 Tuesday, last Tuesday's e-mail?

15 MS. AANSTAD: Yes.

16 THE COURT: So Mr. Toder can look for that. If he
17 can't find it, you can send it to him again, right?

18 MS. AANSTAD: Yes, Your Honor.

19 MR. TODER: That's true.

20 THE COURT: All right. So in terms of the
21 production issue, it seems that the Government has provided
22 you with what it has responsive to docket number 65. What
23 effect that has, what it -- you know, the admissibility,
24 that kind of -- those are for -- in fact will be argued at
25 another date prior to trial, you know, I imagine in terms of

1 Motions in Limine if they are relevant or not. But that's
2 not a production issue. Do you disagree or agree?

3 MR. TODER: I agree.

4 THE COURT: All right. So number 65 is still
5 withdrawn?

6 MR. TODER: It is.

7 THE COURT: Okay. Docket number 64 is the
8 defense's Motion for Production of Materials that fall under
9 *Brady*. There's not a specific *Giglio* motion but the
10 Government referenced *Brady* materials and *Giglio* materials
11 in its response. So it looks to me like there might have
12 been some supplemental discussions in the meet and confer
13 that weren't part of the written motion. So tell me what's
14 what.

15 MR. TODER: The Government agrees that seven days
16 before trial it promises to provide -- promises -- or
17 whatever it is giving to perspective witnesses seven days
18 before trial.

19 THE COURT: So that's *Giglio* impeachment
20 materials?

21 MR. TODER: Yes.

22 THE COURT: And it's references to those witnesses
23 who are going to actually appear at trial that, Ms. Aanstad,
24 that's what I understood the Government's response to be.

25 MS. AANSTAD: Witnesses that would --

1 THE COURT: Yeah.

2 MS. AANSTAD: Yes.

3 THE COURT: And the *Brady* materials, the
4 Government acknowledges that if it's exculpatory in nature,
5 it has an immediate and ongoing duty to produce those.

6 MS. AANSTAD: Yes, Your Honor.

7 THE COURT: All right. And there was no specific
8 reference to *Giglio* materials in docket number 65, but we're
9 not fighting about that, right? I mean 64, I'm sorry.

10 MS. AANSTAD: No.

11 THE COURT: You're not objecting to the *Giglio*
12 production on that basis?

13 MS. AANSTAD: No.

14 THE COURT: Okay. All right. Docket number 67 is
15 the Defendant's Motion for 404(b) Notice. The -- again, the
16 materials submitted to the Court suggest a meet and confer
17 has resulted in an agreement between the parties. With
18 regard to docket number 67, it was 404(b) notice ten days
19 before trial.

20 The Court had a question, because a similar motion
21 for Defendant number 1, there was an agreement to produce
22 those materials 14 days before trial. Is there any reason
23 why this one can't be 14 days before trial as well?

24 MS. AANSTAD: No, Your Honor.

25 THE COURT: Okay.

1 MS. AANSTAD: The Government will agree to make
2 such disclosure.

3 THE COURT: Mr. Toder, do you object to an extra
4 four days?

5 MR. TODER: No, Your Honor.

6 THE COURT: Okay. That's all the discovery and
7 production motions. I think I've touched them all. Have I
8 missed any?

9 MS. AANSTAD: No, Your Honor.

10 THE COURT: Mr. Toder?

11 MR. TODER: No, Your Honor.

12 THE COURT: Okay. Then that leaves docket number
13 66, Defendant Jackson's Motion to Suppress Statements
14 obtained on April 12th, 2018. Is the Government ready to
15 proceed?

16 MS. AANSTAD: Yes, Your Honor.

17 THE COURT: All right. Call your first witness.

18 MS. AANSTAD: Your Honor, the Government has one
19 witness, Investigator Kristopher Larson.

20 THE CLERK: Raise your right hand. You do
21 solemnly swear that in the testimony you're about to give
22 now before the Court to be the truth, the whole truth, and
23 nothing but the truth, so help you God?

24 (No audible response.)

25 THE CLERK: Once seated, please state your full

1 name and spell your last name.

2 THE WITNESS: Kristopher Douglas Larson.

3 L-a-r-s-o-n.

4 THE COURT: Ms. Aanstad, you may inquire.

5 **DIRECT EXAMINATION**

6 **BY MS. AANSTAD:**

7 Q. Good afternoon, Investigator Larson. Because you have a
8 unique spelling to your first name, can you please spell
9 your first name as well?

10 A. It's K-r-i-s-t-o-p-h-e-r.

11 Q. Investigator Larson, where are you currently employed?

12 A. I'm currently employed as an investigator for the White
13 Earth Tribal Police Department in White Earth, Minnesota.

14 Q. And how long have you been with the White Earth Tribal
15 Police Department?

16 A. It will be six and a half years, approximately.

17 Q. How long have you been an investigator with the police
18 department?

19 A. Just over three years.

20 Q. Prior to that, with the White Earth Police Department
21 what was your position?

22 A. I was a patrol sergeant for one year and prior to that I
23 did two years of just active patrol work.

24 Q. So you started off as a patrol officer, moved to a
25 patrol sergeant, and then an investigator?

1 A. Correct. For 18 months I was in Polk County Sheriff's
2 Office as a patrol deputy there.

3 Q. When was that?

4 A. It would have been in 2013, March of '13 until October
5 of '14.

6 Q. So just so I'm clear, there was a break in time at the
7 White Earth Police Department?

8 A. Correct.

9 Q. And you then went to the Polk County Sheriff's Office
10 and came back to the White Earth Police Department?

11 A. Correct.

12 Q. Now, as an investigator with the White Earth Police
13 Department, what are your duties?

14 A. My primary duties are facilitation in the investigations
15 of narcotics and/or violent crimes.

16 Q. And is there a particular area in which you handle those
17 investigations?

18 A. Most of my investigations lead on the White Earth
19 Reservation or in and around the immediate area to include
20 Mahnomen County, Becker County, Clearwater County. And then
21 part of the task forces that I serve on, I have a greater
22 range to neighboring counties from there.

23 Q. Let's talk about that. You serve on some task forces?

24 A. Yes.

25 Q. What task forces do you serve on?

1 A. I'm on one of the state VCET -- that's Violent Crime
2 Enforcement Teams -- which is Paul Bunyan Drug Task Force
3 out of Bemidji, and I have been on that since December of
4 2015. And in that same time I'm also deputized with the FBI
5 and U.S. Marshals on the Headwaters Safe Trails Task Force
6 out of Bemidji.

7 Q. And as a member of those two task forces, both state and
8 federal, what are your duties on those task forces?

9 A. The investigation of controlled substance trafficking
10 and violent crimes.

11 Q. Now, that allows you then to also work off of the White
12 Earth Indian reservation; is that correct?

13 A. That is correct.

14 Q. Now let's talk a little bit about April 12th of 2018.
15 Were you called with respect to an investigation involving
16 the seizure of suspected heroin and Fentanyl?

17 A. Yes, I was.

18 Q. Describe the circumstances as to how you became involved
19 in an investigation on April 12th, 2018.

20 A. Special Agent Daniel Skoog with the Becker County
21 Sheriff's Office, him and I work alongside each other with
22 the Headwaters Safe Trails Task Force. He had called me the
23 evening of April 12th and advised that a traffic stop was
24 completed in Motley by a Minnesota state trooper involving a
25 case that had ties to the White Earth Reservation and

1 Detroit Lakes area, and he requested my assistance to come
2 help him in furthering that investigation.

3 Q. What was going to be your role in assisting furthering
4 that investigation?

5 A. I was designated to a surveillance car at the Walmart in
6 Detroit Lakes to keep surveillance on an active and ongoing
7 controlled delivery at that facility.

8 Q. And what is a controlled delivery?

9 A. Basically agents are aware of a situation or we have
10 seized something and the individual would want to cooperate
11 and deliver those -- what we would call, you know, our
12 controlled substances. So they would arrange with the
13 parties they were going to deliver it to, and law
14 enforcement would be involved with audio recorders and
15 surveillance to make sure that that delivery was made
16 specific to the instructions given to that co-conspirator
17 defendant.

18 Q. Now, this controlled delivery, was that based on the
19 traffic stop that you mentioned in Motley, Minnesota?

20 A. It was.

21 Q. And were you aware of what occurred during that traffic
22 stop?

23 A. I am.

24 Q. What happened?

25 A. Minnesota State Trooper Nick Otterson had made a traffic

1 stop on a vehicle. He had multiple reasons for reasonable
2 suspicion to stop the vehicle, and based on his
3 investigation, his partner canine, Boosa (phonetically
4 spelled) would be his canine, did a sniff of the vehicle and
5 alerted to the vehicle; and a subsequent search of that
6 vehicle yielded a large amount of suspected mixture of
7 cocaine and heroin.

8 Q. Now, that was set for delivery to the Walmart in Detroit
9 Lakes?

10 A. From what I learned from SA Skoog, the case agent, that
11 was their intended destination, and to deliver -- to meet a
12 female named Dawn from White Earth.

13 Q. And so then you took part in the surveillance team at
14 the Walmart location?

15 A. That is correct.

16 Q. And were you able to identify the vehicle that was --
17 that was part of the controlled delivery that had been
18 stopped in Motley, Minnesota?

19 A. Yes. Special Agent Skoog had notified everybody of what
20 the vehicle was, along with a briefing or an operations plan
21 of what was planned on as far as the incident was to go.

22 Q. And do you remember what that vehicle looked like?

23 A. I do.

24 Q. What was it?

25 A. It was a brand new, or within a few hundred miles of, a

1 black Ford Explorer Limited.

2 Q. And had that Ford Explorer Limited showed up at the
3 White Earth -- or excuse me -- the Walmart parking lot in
4 Detroit Lakes?

5 A. Yes, it did.

6 Q. And you were conducting surveillance at that time?

7 A. I was.

8 Q. Was there a vehicle that then approached that black
9 Explorer?

10 A. Yes, there was.

11 Q. Do you remember what that vehicle looked like?

12 A. It was a Pontiac white Grand Prix.

13 Q. And what occurred after that vehicle pulled up next to
14 the Explorer?

15 A. I observed a female exit the passenger seat of the
16 Pontiac and enter the rear passenger seat of the black Ford
17 Explorer.

18 Q. After -- what happened after you made that observation?

19 A. I continued conducting surveillance from my location
20 until the female passenger that had originally exited the
21 white Pontiac and entered the black Ford Explorer, she then
22 exited the black Ford Explorer and reentered the passenger
23 seat of the white Pontiac.

24 Q. Were you able to stop the individuals in that white
25 Pontiac?

1 A. The -- two individuals in the white Pontiac left that
2 location and travelled to the front of the Walmart store and
3 parked, and myself and other law enforcement made contact
4 with them as they were exiting and walking away from the
5 Pontiac.

6 Q. So just so that I'm clear, the female reentered the
7 Pontiac and then drove across or within the parking lot to a
8 location closer to the Walmart?

9 A. That's correct.

10 Q. And so you made contact with the two individuals as they
11 were exiting the Pontiac?

12 A. Correct.

13 Q. Did you identify who those individuals were?

14 A. I did.

15 Q. Who were they?

16 A. The driver was Mr. Craig Jackson, Jr. that I also know
17 as "Moose," and the female was identified as Dawn Lee Kier.

18 Q. Do you see Craig Jackson, Jr. in the courtroom today?

19 A. Yes, I do.

20 Q. Could you please identify him by where he's seated and
21 an article of clothing?

22 A. Mr. Jackson is sitting over here in orange clothing.

23 MS. AANSTAD: Your Honor, may the record reflect
24 that the witness has identified the Defendant?

25 THE COURT: The record may so reflect.

1 BY MS. AANSTAD:

2 Q. Was the Defendant arrested on April 12th of 2018?

3 A. Yes, he was.

4 Q. Do you remember what time that was?

5 A. It would have been right around 8:00 p.m. I'm not sure
6 the exact time, but I know I set up surveillance at
7 approximately 7:30, shortly after 7:30 p.m.

8 Q. And so what happened after the Defendant was arrested?

9 A. He was placed into a Becker County Sheriff's Office
10 marked squad car and was transported to jail. Myself and
11 other agents had collected some items that were located on
12 the scene, and then I brought those items back to the
13 sheriff's office.

14 Q. Now, on October -- excuse me -- April 12th, 2018, did
15 you have an opportunity to meet with Craig Steven Jackson,
16 Jr. at the Becker County Sheriff's Office?

17 A. Yes, I did.

18 Q. And what was the purpose of meeting with Craig Steven
19 Jackson, Jr.?

20 A. Special Agent Dan Skoog and I wanted to conduct
21 interviews and Mr. Jackson was one of the persons involved
22 in the case that we wanted to interview.

23 Q. And did you conduct an interview with the Defendant?

24 A. Yes.

25 Q. And where did that interview take place?

1 A. In the sheriff's office in their dedicated interview
2 room.

3 Q. And you say "dedicated interview room." What do you
4 mean by that?

5 A. They have a small room that is right at the entrance of
6 the jail, the entrance of the jail from the interior side,
7 that is equipped with desk and chairs, a phone, and it
8 has -- it has an old see-through glass window that's not
9 used anymore, and then they have an observation spot on the
10 back side, outside of the room.

11 Q. That can be then used to look in through that window
12 that you described?

13 A. Or monitor through the video recording device.

14 Q. When you say "video recording," do you know whether you
15 video recorded this statement on April 12th, 2018?

16 A. I do not.

17 Q. Are you aware of whether it works or not?

18 A. Typically in the past when I have been present or
19 assisted in interviews, I know that it's been used to
20 monitor them live. But as far as documenting them or
21 obtaining recordings of them, I don't know. It's not the
22 office that I work out of.

23 Q. Are you aware of whether there was an audio recording
24 that was made of the statement with the Defendant on April
25 12th, 2018?

1 A. Yes, I was.

2 Q. And there was an audio recording statement?

3 A. Yes, there was.

4 Q. Who had the audio recording equipment that was utilized?

5 A. Special Agent Skoog.

6 Q. Did you see that recording equipment in that interview
7 room?

8 A. I don't recall if I observed it. I just know when he
9 had started the actual recording.

10 Q. Now, you began to explain the layout of the room. Could
11 you please describe the interior of the room a little bit
12 more with respect to the size?

13 A. So when you walk into the room, the doorway is on I
14 believe the left-hand side. So when you walk into the room
15 it opens up in and to the right, and there's a small desk
16 that goes from against the right wall to the center of the
17 room, and there's a small pathway to be able to walk between
18 the wall and the desk so you can sit at the back side of the
19 desk. SA Skoog and I sat at the back side of the desk. On
20 the front side of the desk nearest the door to enter the
21 room is where Mr. Jackson sat.

22 Q. Was Mr. Jackson, the Defendant, in custody at the time
23 that he was brought into that interview room?

24 A. Yes, he was.

25 Q. Do you remember how Mr. Jackson arrived in the room?

1 A. Mr. Jackson was brought down to the interview room by
2 corrections staff from the jail.

3 Q. Do you remember what Mr. Jackson was wearing at the
4 time?

5 A. I don't specifically remember if Mr. Jackson was still
6 in his street clothes or if he had been changed out into
7 jail uniforms.

8 Q. Do you know whether Mr. Jackson, the Defendant, was in
9 handcuffs at the time?

10 A. Yes, he was.

11 Q. Did the Defendant remain in handcuffs during the course
12 of the statement?

13 A. He did.

14 Q. Now, this interview, were you in the room from the
15 moment the Defendant entered the room?

16 A. Yes, I believe I was.

17 Q. Did you ever leave the room during the course of the
18 interview with the Defendant?

19 A. No.

20 Q. What about Agent Skoog. Was he in the room at the time
21 that the Defendant arrived?

22 A. I believe so, yes.

23 Q. And did Agent Skoog ever leave the room?

24 A. No.

25 Q. Was there any other individuals that were present in the

1 interview besides you, Agent Skoog and the Defendant?

2 A. I do not believe there was.

3 Q. All of the interview statement with the Defendant was
4 captured on recording?

5 A. That's correct.

6 Q. And you've had an opportunity to review that recording?

7 A. Yes, I have.

8 Q. Now, do you remember what time the interview started?

9 A. I believe the interview started at approximately 10:16
10 p.m.

11 Q. And how long did the interview last?

12 A. I believe it was just over 17 minutes.

13 Q. What happened when the interview concluded?

14 A. At the conclusion of the interview, a call was made to
15 the jail and advised that Mr. Jackson would be coming back
16 up. As was standard interview process that we do at that
17 office, we open up -- there's an electronic door you have to
18 open with a key fob. The jail is -- the elevator is opened
19 and whoever you're speaking with that's going back up to the
20 jail would go into the elevator and the doors would close
21 and they would go up by themselves where the jail staff
22 would be waiting.

23 Q. And this door that you described with the key fob and
24 the elevator, that's separate from the door to the interview
25 room?

1 A. Correct. It's on the opposite side of the hall.

2 Q. So let's talk about that 17-minute statement that you --
3 the 17-minute period of time that you talked to the
4 Defendant. During the course of that interview, did you
5 have a firearm with you at the time?

6 A. I did.

7 Q. Where was your firearm located?

8 A. My firearm was concealed behind my back.

9 Q. What do you mean behind your back?

10 A. I wear plain clothes. I'm not assigned to uniform duty
11 so I wear plain street clothes as part of my undercover
12 priorities and job duties. So with that being said, I carry
13 very deep concealed with my firearms so it is not able to be
14 detected that I'm carrying.

15 Q. And did you ever display that firearm to Mr. Jackson in
16 that 17-minute interview?

17 A. No, I did not.

18 Q. What about Agent Skoog. Are you aware of whether he had
19 a firearm?

20 A. I don't know if he did or not. I can't say. Typically
21 Agent Skoog would also carry quite concealed. So -- but I
22 can't say for certain if he had one or not.

23 Q. You never saw Agent Skoog display a firearm or point it
24 at Defendant during the course of this statement?

25 A. No.

1 Q. Now, during the course of this statement as it began,
2 you indicated that you're familiar with the Defendant. Is
3 that correct?

4 A. That's correct.

5 Q. And at the beginning of the statement, was there any
6 information that was provided by the Defendant?

7 A. Just his full name, date of birth, and an address.

8 Q. And are you aware of whether you yourself or Agent Skoog
9 provided the Defendant with a Miranda warning?

10 A. Yes, Special Agent Skoog did.

11 Q. And you were there for that Miranda warning?

12 A. I was.

13 Q. Did Mr. Jackson agree to speak with you and Agent Skoog
14 on April 12th, 2018?

15 A. He did.

16 Q. And you then continued on with the statement?

17 A. That's correct.

18 Q. Now, you -- did you and Agent Skoog both ask questions
19 during this interview?

20 A. We did.

21 Q. And you had an opportunity to listen to the questions
22 provided by Agent Skoog and the responses from the
23 Defendant. Is that correct?

24 A. That is correct.

25 Q. You also asked questions of the Defendant?

1 A. Yes.

2 Q. Did the Defendant appear to understand the questions
3 that were being asked?

4 A. Yes.

5 Q. Did the Defendant respond appropriately?

6 A. Yes.

7 Q. Did the Defendant volunteer information after agreeing
8 to speak with you and Agent Skoog?

9 A. Yes.

10 Q. Did the Defendant appear under the influence of alcohol?

11 A. No.

12 Q. Did the Defendant appear to be under the influence of
13 any controlled substances?

14 A. No.

15 Q. Did the Defendant complain about not knowing what was
16 going on as he was speaking with you and Agent Skoog?

17 A. No.

18 Q. At any point in time during this 17-minutes, did you or
19 Agent Skoog threaten the Defendant in any way?

20 A. No.

21 Q. Did you make any promises to the Defendant about whether
22 he would receive any benefits if he spoke to you?

23 A. No.

24 Q. Did you make any other promises otherwise to the
25 Defendant during this interview?

1 A. No.

2 Q. At any point in time did either you or Agent Skoog raise
3 your voice or yell at the Defendant?

4 A. No.

5 Q. Did the Defendant yell at you?

6 A. No.

7 Q. Did you or Agent Skoog in any way physically threaten
8 the Defendant during the course of this interview?

9 A. No.

10 Q. And at the conclusion of this interview, what happened?

11 A. At the conclusion of the interview, like normal times
12 when we conclude an interview, the jail is called and
13 advised that Mr. Jackson was -- we were going to put him
14 back up -- head in the elevator to head back upstairs to the
15 jail. And which so he was walked through the jail sally
16 door and placed into the elevator.

17 Q. During the course of the statement with the Defendant,
18 did Mr. Jackson ever request an attorney?

19 A. No, he did not.

20 Q. Did he ever indicate that he should be talking to an
21 attorney?

22 A. No.

23 Q. And again, you were there when Agent Skoog provided a
24 Miranda warning?

25 A. I was.

1 MS. AANSTAD: May I approach, Your Honor?

2 THE COURT: You may.

3 BY MS. AANSTAD:

4 Q. Investigator Larson, I've placed before you what's been
5 marked for identification purposes as Government Exhibit 1
6 and Government Exhibit 2. Do you recognize these two
7 exhibits?

8 A. Yes, I do.

9 Q. What are they?

10 A. Exhibit 1 is a CD, compact disc, which contains the
11 audio recording of the statement taken from Mr. Jackson by
12 Agent Skoog and I.

13 Q. And you've had an opportunity to actually listen to the
14 statement that is on that disc on Exhibit 1; is that
15 correct?

16 A. Yes, I have.

17 Q. And you have initialled and dated the disc?

18 A. Yes.

19 Q. You listened to that disc today before this court
20 appearance?

21 A. I did.

22 Q. And it accurately reflects the statement that you took
23 from the Defendant, you and Agent Skoog, on April 12th,
24 2018?

25 A. Yes.

1 MS. AANSTAD: Your Honor, the Government moves to
2 offer Government Exhibit 1.

3 THE COURT: Mr. Toder.

4 MR. TODER: No objection for purposes of today's
5 proceedings.

6 THE COURT: Government Exhibit 1 is admitted.

7 BY MS. AANSTAD:

8 Q. Next turning to Government Exhibit 2 -- or excuse me --
9 what's been marked or identification purposes as
10 Government's Exhibit 2, what is that?

11 A. Exhibit 2 is a transcript of the audio recorded
12 statement taken from Mr. Jackson.

13 Q. And have you had an opportunity to compare Government
14 Exhibit 2, that transcript, to the audio recording in
15 Government Exhibit 1?

16 A. Yes, I have.

17 Q. And does that transcript accurately reflect the
18 conversation that was captured on audio recording?

19 A. Yes, it does.

20 MS. AANSTAD: Your Honor, the Government moves to
21 admit Government Exhibit 2.

22 THE COURT: Mr. Toder.

23 MR. TODER: No objection for purposes of today's
24 proceedings.

25 THE COURT: Government Exhibit 2 is admitted.

1 MS. AANSTAD: May I publish, Your Honor?

2 THE COURT: You may.

3 BY MS. AANSTAD:

4 Q. Now, wrapping up, Investigator Larson, on April 12th of
5 2018 did the Defendant ever indicate that he did not want to
6 speak with you?

7 A. No.

8 Q. Did the Defendant ever indicate that he was confused
9 about why he was speaking with you?

10 A. No.

11 Q. Did the Defendant ever indicate that he was confused by
12 the questions that either you or Agent Skoog were asking?

13 A. No.

14 MS. AANSTAD: Your Honor, I have no further
15 questions.

16 THE COURT: Mr. Toder.

17 MR. TODER: Thank you, Your Honor.

18 **CROSS-EXAMINATION**

19 **BY MR. TODER:**

20 Q. Good morning, Mr. Larson.

21 A. Good morning.

22 Q. Officer Larson.

23 A. Good afternoon.

24 Q. Sorry. You're right.

25 Did you do anything special in preparing for

1 today's testimony?

2 A. Just like typical, reviewed the recording and the
3 transcript.

4 Q. Did you review anything else?

5 A. I briefly reviewed my own report.

6 Q. Did you review the grand jury testimony of Officer
7 Skoog?

8 A. I have not.

9 Q. Have you ever seen that, a transcript of that?

10 A. No.

11 Q. You said that the Defendant was arrested around
12 8 o'clock p.m. on April 12th?

13 A. I believe that's right around then, that timeframe.

14 Q. Was he continuously in custody from then until you
15 concluded the interview on April 12th?

16 A. Yes, I believe so.

17 Q. And you also said that the Defendant was transported to
18 the Becker County Jail after he was arrested?

19 A. That's what I believe, yes.

20 Q. Were you in that vehicle?

21 A. No.

22 Q. You testified that the only thing that the Defendant
23 said before he was Mirandized was just his full name, date
24 of birth, something to that effect?

25 A. Yeah, full name, date of birth, PO box number and phone

1 number.

2 Q. So you have Exhibit 2 in front of you?

3 A. I do not.

4 THE COURT: It's up here. If you want it, it's
5 right here.

6 BY MR. TODER:

7 Q. Officer Larson, did the Defendant tell you that he got
8 paid to give Ms. Kier a ride to Walmart?

9 A. For the ride?

10 Q. Yeah.

11 A. Not that I can remember.

12 Q. All right. And when he was arrested, there was on his
13 person about a gram of heroin, was there not?

14 A. I don't know the exact weight but it was around that,
15 yeah.

16 Q. Um-hum. And you asked him how much he had paid for that
17 in the interview, correct?

18 A. Um-hum.

19 Q. I'm sorry, is that a yes?

20 A. I'd have to review here first.

21 Q. I'll direct you to page 4, please. Line 38
22 specifically.

23 A. Yep.

24 Q. And so you're -- if you look at line 41, it's
25 interesting. You said -- and by the way, KL, that's you?

1 A. Yes, that's me.

2 Q. You said to Defendant, "You had told me something out
3 there, too." So what does that mean, "You had told me
4 something out there, too?"

5 A. Mr. Jackson, when he was in the rear patrol or in the
6 rear seat of one of the deputy's patrol cars, while he had
7 been placed in there and was talking had made a mention of
8 where that came from when the item was pulled off of him,
9 but I don't remember verbatim what he said.

10 Q. You were in the vehicle with him, I take it?

11 A. No, I was outside the vehicle.

12 Q. Well, it said so, but you were talking through the glass
13 or the window?

14 A. I think the door was opened. I mean, I don't know if he
15 was still being searched and placed inside or not.

16 Q. But you were talking to him?

17 A. Yeah.

18 Q. And did you Mirandize him then?

19 A. I did not.

20 Q. But he was in custody, was he not?

21 A. Yes.

22 Q. What else did he tell you other than that he paid about
23 a hundred bucks for the heroin that was on him?

24 A. I don't remember what else, if anything else, was said.

25 Q. Well, what is it? You don't remember or you think he

1 could have told you more?

2 A. I don't. As of that time it was briefly brought him to
3 the car, he had said he wants to help himself out or
4 something like that. But that's all that I remember
5 was said.

6 Q. When he said he wanted to help himself out, did you
7 agree that that would be a good thing to do?

8 A. I don't believe I gave him much of a response at all.

9 Q. Well, how much of a response did you give him?

10 A. I don't know. I can't recall the conversation.

11 Q. Who was there present that could have heard that
12 conversation besides you and the Defendant?

13 A. There was a deputy standing close by, too, I think.

14 Q. Do you know who the deputy was?

15 A. I'd have to review the reports. I don't -- whatever
16 deputy's patrol vehicle that was.

17 Q. At that time did that deputy Mirandize my client?

18 A. Not that I know of.

19 Q. Can you be more specific about what you thought he told
20 you when he was in that car? Or what you thought he told
21 you?

22 A. I'm just taking a minute here to try to recall the --

23 Q. Please do. Take your time.

24 A. I don't know more of how to clarify other than he was in
25 the back seat of the car and he was wanting to talk. He was

1 trying to help him say something or because of the
2 situation, and I know I can't clarify, I don't remember
3 exactly what was all said, which he said. He had began
4 talking with myself.

5 Q. How many minutes was your conversation with my client?

6 A. Very short, because we still have an active scene with
7 the parking lot blocked off and people roaming around
8 through Walmart. So it was pretty fast paced trying to get
9 the things cleared up.

10 Q. Earlier in your testimony today you said that someone
11 told you that they were going to meet a female named -- I
12 can't remember --

13 A. Dawn.

14 Q. Dawn. Who said that to you?

15 A. SA Skoog had told me that from his investigation
16 assisting on the traffic stop investigation by Trooper
17 Otterson.

18 Q. So where was he when he said that they were going to
19 meet a female named Dawn?

20 A. It was over the phone that Agent Skoog had told me that,
21 so I don't know where -- if he was at the traffic stop
22 location or where -- where those other two defendants were
23 at the time, I don't know.

24 Q. Did he also say that they were going to meet a male
25 named Craig Jackson?

1 A. No.

2 Q. Only Dawn, correct?

3 A. That's all that SA Skoog told me was a female named
4 Dawn.

5 Q. I'm going to read a sentence to you from the grand jury
6 testimony of Mr. Skoog. He says to the grand jury:

7 "Jackson said that he was driving Kier down from White Earth
8 to Walmart and that they had met with Pirtle and Williams."

9 Did anyone ever tell you that Jackson said that
10 they had met with Pirtle and Williams?

11 A. Can you rephrase that for me? I'm not following you.

12 Q. I'll read the sentence again.

13 MS. AANSTAD: Objection, Your Honor.

14 MR. TODER: Your Honor, may I approach?

15 THE COURT: Well, hang on. What's the objection?

16 MS. AANSTAD: Your Honor, this is improper
17 impeachment. It's with a statement, the grand jury
18 testimony of another agent which the investigator has
19 already indicated he has not reviewed and would have no
20 knowledge of.

21 THE COURT: Mr. Toder, your response to that
22 objection?

23 MR. TODER: My response is that this is one
24 sentence that was said by Mr. Skoog for purposes of
25 impeaching this witness. We have it here because Mr. Skoog

1 was supposed to testify and therefore it's not a secret
2 document anymore.

3 THE COURT: Well, but it's -- the point is it's
4 statements made by someone else to which this person has
5 already testified they have no knowledge of. So how is that
6 impeaching?

7 MR. TODER: Your Honor, I can rephrase the
8 question to cure the problem.

9 THE COURT: Let's try that. The objection is
10 sustained. Restate the question.

11 MR. TODER: I'm going to restate the question.

12 BY MR. TODER:

13 Q. Just tell me if you agree with this statement. That at
14 some point Jackson said that he was driving Kier down from
15 White Earth to Walmart and that they had met with Pirtle and
16 Williams. Did Jackson, Mr. Jackson, did he ever tell you
17 that they, meaning him and Dawn, were driving to
18 specifically meet with Pirtle and Williams?

19 MS. AANSTAD: Objection, Your Honor. I renew my
20 previous argument.

21 THE COURT: All right. Well, the witness has
22 already said that he wasn't aware of the content of
23 Mr. Skoog's grand jury testimony so his knowledge of that is
24 specifically to what took place in the grand jury, he's
25 disqualified -- he's already said he has no knowledge of

1 that so there's no way to answer that question. As I
2 understand your rephrased question is you're making it more
3 general, have you ever heard this statement at any time. Is
4 that what you're saying?

5 MR. TODER: Yes, Your Honor. I'm taking it out of
6 the grand jury context.

7 THE COURT: Okay. All right. Well, then ask it
8 that way.

9 MR. TODER: Okay. I'll try again.

10 THE COURT: You keep referring back to the
11 testimony in front of the grand jury. That's where there's
12 a problem here. He can't testify to something he wasn't
13 part of and he's already disqualified himself from that. So
14 go one more time.

15 MR. TODER: Okay.

16 BY MR. TODER:

17 Q. Did Mr. Jackson ever tell you that he and Dawn Kier had
18 met with Pirtle and Williams?

19 A. Mr. Jackson told me that he just drove Dawn to Walmart.

20 Q. Thank you.

21 MR. TODER: I have nothing further, Your Honor.

22 THE COURT: Ms. Aanstad?

23 MS. AANSTAD: Just briefly, Your Honor.
24
25

REDIRECT EXAMINATION

BY MS. AANSTAD:

Q. Investigator Larson, you were at the Walmart store on April 12 of 2018 and assisted in the arrest of the Defendant; is that correct?

A. That's correct.

Q. And there was some questions about whether you spoke with the Defendant at the Walmart scene; is that correct?

A. Correct.

Q. And you assisted in the actual physical arrest of the Defendant?

A. Yes, that's correct.

Q. Did you pose any questions to the Defendant at that time?

A. No, not that I believe.

Q. Did you attempt to take a statement from the Defendant by -- at that time?

A. No.

Q. Was the Defendant saying things to you?

A. Yes.

Q. Did you then engage in a conversation with the Defendant?

A. I don't believe anything more than potentially we would sit down and talk at a later time.

Q. And how long was your interaction with the Defendant as

1 you were arresting him?

2 A. Long enough to place him into handcuffs and search his
3 person or assist in searching his person; and from the time
4 he was put into a squad car, because we had a deputy that
5 had pulled up, and then that brief moment at the open door
6 of the squad car when he was trying to speak with me. So
7 not long at all.

8 Q. And the Defendant was transported to the Becker County
9 Sheriff's Office by a deputy from Becker County?

10 A. Yes.

11 Q. And you had no other interaction with the Defendant
12 until you met him in that interview room at the Becker
13 County Sheriff's Office?

14 A. That's correct.

15 Q. Now, after arresting the Defendant at the Walmart
16 location, there was a period of about an hour and a half to
17 two hours?

18 A. That's correct.

19 Q. And during -- when you saw the Defendant again at the
20 interview room at the Becker County Sheriff's Office, did
21 you note any injuries on the Defendant?

22 A. I knew of none.

23 Q. Did the Defendant complain to you at all about his
24 treatment between the time of his arrest and when you saw
25 him again at the Becker County Sheriff's Office?

1 A. No.

2 Q. And when you indicated that the Defendant told you that
3 he had driven Dawn to the Walmart in Detroit Lakes,
4 Minnesota, when did the Defendant tell you that statement?

5 A. That was in the interview room at the sheriff's office.

6 MS. AANSTAD: Thank you. I have no further
7 questions.

8 MR. TODER: Nothing further, Your Honor.

9 THE COURT: All right. Do you want to -- either
10 of you want to retrieve Exhibit 2 and give it back to the
11 Court?

12 MS. AANSTAD: Yes, Your Honor.

13 Your Honor, may this witness be excused?

14 THE COURT: He may.

15 MS. AANSTAD: Your Honor, the Government rests.

16 THE COURT: Mr. Toder.

17 MR. TODER: We have no witnesses and we'll rest.

18 THE COURT: All right. Do the parties wish the
19 opportunity to brief the motion? Government, what's your
20 preference?

21 MS. AANSTAD: Your Honor, I guess it depends upon
22 what defense counsel -- based upon --

23 THE COURT: I guess I should ask Mr. Toder first.

24 MR. TODER: No, Your Honor, we'll submit this on
25 the record.

1 THE COURT: And -- okay. Which gets me to a --
2 have a seat.

3 Do you want to make an argument now today, you
4 know, before we adjourn? Or when you say on the record, I
5 mean, just silent and let me take it from here?

6 MR. TODER: No, Your Honor, I think the record
7 speaks for itself. His testimony speaks for itself. In a
8 nutshell, the part about the -- him having a gram of heroin
9 on him and how it was paid for, that's a very critical part
10 of the case and that information was obtained from the
11 Defendant while he was in custody without him being
12 Mirandized. And just because he says later on in a
13 Mirandized statement, that doesn't cleanse the problem that
14 happened there. And therefore, I would at least like any
15 mention at all about the compensation for the heroin and all
16 that thing be stricken. But I'd like the whole thing
17 stricken, of course.

18 THE COURT: Okay. Ms. Aanstad.

19 MS. AANSTAD: Your Honor, based upon the
20 Defendant's motion, the Government would request that the
21 Court deny the Defendant's Motion to Suppress. This is an
22 issue of whether the statement was voluntarily given and a
23 Miranda warning was provided. The evidence will speak for
24 itself.

25 Both Government Exhibits 1 and 2 outline the

1 statement that was taken from the Defendant on April 12th,
2 2018, and Investigator Larson has testified with respect to
3 that statement as well as the Defendant's arrest
4 approximately two hours before.

5 So based upon all of the evidence in this case,
6 the Government would move to -- would respectfully request
7 that the Court deny the Defendant's Motion to Suppress.

8 THE COURT: This case is presently set for trial
9 on March 4th, 2019. Even taking the motion under advisement
10 today with time to prepare a report and recommendation,
11 which obviously we can get to work on it as soon as our
12 workload permits and not have to wait for any briefing, but
13 that still leaves opportunities to object and respond to
14 objections a total of 28 days after that. That will have
15 the necessary effect of under rule -- Local Rule 12.1 of
16 essentially kicking that trial date down the road a little
17 bit because I can -- I mean, even if I turn this tomorrow,
18 those objection periods take you into the trial date.

19 MS. AANSTAD: Your Honor, if I may, I believe we
20 received a new trial notice on Friday, I think it was, of
21 April 1st.

22 THE COURT: All right. Then I have -- that may
23 still affect it. I don't know. But the -- I was given the
24 files before that showed up. So, okay. But that's
25 effectively another month. It may be enough time, I don't

1 know.

2 Well, we will issue our report and recommendation
3 as soon as our current workload permits. I don't know if
4 anyone intends to order a transcript but I don't intend to
5 wait for the transcript to start working on this since no
6 one wants to brief it or anything like that. The Court has
7 its notes, the Court has its recollection of the testimony,
8 and if need be I can refresh by pulling up the hearing on
9 the digital recording of the hearing as I need to.

10 Anything else from the defense?

11 MR. TODER: No, except it is our intention to
12 order a transcript. That doesn't affect you, I guess.
13 Nothing else.

14 THE COURT: All right. Anything else from the
15 Government?

16 MS. AANSTAD: No, Your Honor.

17 THE COURT: All right. All motions are submitted,
18 under advisement. Discovery and production motions will be
19 subject to order. We'll get that out here shortly. Docket
20 number 66, Motion to Suppress, subject to report and
21 recommendation, that will be separately issued, again as our
22 workload permits.

23 We're adjourned. Thank you.

24 (Court adjourned at 4:17 p.m.)

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3 I, Carla R. Bebault, certify that the foregoing is
4 a correct transcript from the digital audio recording of
5 proceedings in the above-entitled matter, transcribed to the
6 best of my skill and ability.
7
8

9 Certified by: s/Carla R. Bebault
10 Carla Bebault, RMR, CRR, FCRR
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